



**MINUTES OF THE
HISTORICAL AFFAIRS AND LANDMARK REVIEW BOARD**

Wednesday, March 16, 2022, 6:30 PM

This was a virtual public meeting held through electronic communication means.

MEMBERS PRESENT: Omari Davis, Vice Chair
Sarah Garner
Jennie Gwin
Gerald Laporte
Joan Lawrence
Robert Meden
Rebecca Meyer
Mark Turnbull (arrived 6:54 pm)
Andrew Wenchel (arrived 6:34 pm)
Richard Woodruff, Chair

MEMBERS EXCUSED:

John Aiken
Robert Dudka
Carmela Hamm

STAFF: Cynthia Liccese-Torres, Historic Preservation Program Manager
Lorin Farris, Historic Preservation Planner
Serena Bolliger, Historic Preservation Planner
Mical Tawney, Historic Preservation Specialist

CALL TO ORDER & ROLL CALL

The Chair called the meeting to order. Ms. Liccese-Torres read the roll and determined there was a quorum.

APPROVAL OF FEBRUARY 16, 2022, MEETING MINUTES

The Chair asked for comments or amendments for the draft minutes. There were none, and Ms. Gwin made a motion to approve the minutes and Mr. Davis seconded. Ms. Liccese-Torres called the roll and the motion passed 8-0-1, with Ms. Lawrence abstaining (Mr. Turnbull had not yet arrived).

EXPLANATION OF PUBLIC HEARING PROCEDURES

The Chair explained the virtual Historical Affairs and Landmark Review Board (HALRB) public hearing procedures and stated that the virtual meeting format was necessitated as a precaution to protect the Board, staff, and community members from the spread of COVID-19. He

communicated the legal authority under which the County was able to hold virtual public hearings, citing the Governor’s Executive Orders, legislation adopted by the Virginia General Assembly, and the County Board’s Continuity of Operations Ordinance adopted in March 2020. The Chair then described the logistics of how the virtual meeting would proceed via the Microsoft Teams platform and/or the call-in number.

**PUBLIC HEARING FOR CERTIFICATES OF APPROPRIATENESS (CoAs)
CONSENT AGENDA**

The Chair asked for any concerns or questions on the consent agenda. Mr. Laporte asked some questions about the consent agenda item at 4025 North Randolph Street. The Chair invited the Design Review Committee (DRC) to answer Mr. Laporte’s question about the rustication of the walls proposed as part of this application. Mr. Davis stated that aspect of the project was not discussed by the DRC and noted that the DRC largely felt the proposal did not detract from the house or the landscape. Given that Mr. Laporte wanted to have a larger discussion about this project, he requested this item be moved to the discussion agenda.

**PUBLIC HEARING FOR CERTIFICATES OF APPROPRIATENESS (CoAs)
DISCUSSION AGENDA**

Consent Agenda Item #1: CoA 22-05, 4025 N. Randolph St.

Ms. Tawney explained that the subject property, called the Hermitage and located at 4025 North Randolph Street, is a Rustic Revival-style log house constructed in 1931. She stated that since becoming a local historic district (LHD) in 2017, no applications for CoAs or ACoAs have been made by the property owners; this application was for a retroactive CoA for landscaping alterations.

Ms. Tawney summarized the following details of the application, noting that all but one of the nine proposed project elements had been completed or were close to being finished:

1. The applicants stabilized an existing stone wall along the northwest corner of the property at the intersection of N. Randolph St. and what used to be 41st Street N. They incorporated the stone from the original wall into the construction of a new wall measuring 18-24” in height.
2. The applicants would like to install an asphalt apron between their driveway and N. Randolph St. – this work has not been completed yet.
3. The applicants stabilized the original gravel margin between N. Randolph St. and the west garden. They installed a new low concrete-block wall clad in a stone veneer that measures 1-2” in height. In between the wall and the street are river jack stones with a few larger decorative rocks and areas for plantings.
4. The applicants added new steppers to the terraced western garden to stabilize the soil; there are four terraces in total. Native stone that matches the stone used in other parts of the project was used for the terrace walls.
5. The applicants replaced broken stones and created a more uniform rise and tread to the walkway from N. Randolph St. to the main house entrance. LED downlights were installed

- to help visibility along the walkway and a simple iron handrail was added. The mailbox at the top of the walkway also was relocated and a stacked stone wall installed behind it.
6. The applicants installed a granite cobble-stone pull-off area for parking along N. Randolph St. – this area originally had a gravel pull-off area.
 7. The applicants replaced broken slate pavers in the patio area along the facade of the house (west elevation). They also removed the river jack stone with lumber edging along the areas closest to the house and replaced it with flat slate pavers matching the rest of the patio area.
 8. The applicants extended the tread of the two steps at the main entrance to create safer access to the house; the slate used to extend the stairs matches the materials used on the earlier steps.
 9. Finally, the applicants installed two walkways and a patio space along the house's south elevation – the original, informal and irregular walkway was repaired and widened at the top to create a patio space for seating. Another walkway leads from the patio to the house's rear elevation; slate is used throughout.

Ms. Tawney next summarized the feedback given at the March 2, 2022, virtual DRC meeting; the members appreciated the applicant's apology for not obtaining a CoA prior to the start of the landscaping project and expressed their gratitude for the applicant's attention and stewardship of the Hermitage. She noted that all the DRC members agreed the landscaping design was appropriate to the LHD. The DRC placed this item on the Consent Agenda for the March 16, 2022, virtual HALRB public hearing.

Ms. Tawney then presented the Historic Preservation Program (HPP) staff recommendation as follows:

The HPP staff recommends approval of the subject application as submitted. The project addresses erosion issues throughout the property, particularly in the western portion and along N. Randolph St., and fixes deteriorated hardscaping. The project has been thoughtfully designed so as not to detract from the overall character of the historic property; the applicant has re-used original materials where possible and incorporated matching materials throughout. Additionally, the changes to the landscape fix safety issues such as uneven stairs, loose and damaged pavers, and crumbling walls.

Ms. Tawney noted that the property owner was present. The applicant, Mr. Jensen, apologized for not having applied for a CoA prior to starting the work. He addressed Mr. Laporte's comment about the stone on top of the walls by stating that all pre-existing walls had been stacked stone and that he had incorporated the original stone into portions of the new walls.

The Chair thanked the applicant for his comments and invited Mr. Laporte to ask any additional questions. Mr. Laporte expressed that the stone veneer and pavers utilized in the project took away from the historic nature of the house because they were modern elements. He also emphasized that he wished the project had come forward prior to initiation so that the DRC could have offered guidance on the materials used to ensure they did not detract from the house. Mr. Jensen asked a clarifying question of Mr. Laporte about the materials used. Mr. Laporte answered with suggestions of what materials he thought would have been more appropriate to use in the project, such as Pennsylvania stone.

The Chair invited other commissioners to speak. Hearing no additional comments, the Chair proposed the following motion:

I move that the HALRB approve CoA 22-05, 4025 N. Randolph Street as proposed in the application and recommended in the Staff Report.

Ms. Lawrence seconded the motion. The Chair asked if Mr. Laporte wanted to amend the motion or make additional comments. Mr. Laporte stated his intention to vote against the motion but did not seek an amendment to the motion. Upon hearing no other comments or questions, the Chair asked Ms. Liccese-Torres to call the roll. The motion passed 9-1, with Mr. Laporte opposed (Mr. Turnbull had arrived by this time).

Discussion Agenda Item #21: CoA 21-02A, 3205 23rd St. N.

Ms. Tawney offered a brief project background: the property at 3205 23rd Street North was constructed pre-1923 and was a contributing Craftsman-styled house in the LHD. In March 2020, the house was damaged by fire and in April 2021, the HALRB approved CoA 21-02 which allowed the owners to demolish their existing fire-damaged house and replace it with a new two-story Craftsman-inspired dwelling. Additionally, the HALRB, utilizing its setback modification authority via the Arlington County Zoning Ordinance Section 15.7.4, determined that the proposed front and side setbacks of the new house were consistent with the streetscape in Maywood and the *Maywood Design Guidelines*.

Ms. Tawney summarized the details of the proposal as follows:

The applicants have returned to the HALRB with a few requested amendments to the original CoA 21-02 for both the house and the landscape. The new plans include a few changes to the windows at the basement level on both the east and west elevations. Additionally, the applicants are proposing that the side entrance along the east elevation change. The original plan included a flight of stairs leading to a landing at the top to access the entrance, but the new proposed plan would lower the side entrance and use a smaller set of stairs for access. The stairway entrance would be east-facing rather than south-facing as the original plan called for and the new stairs would be composed of pressure treated wood and feature two handrails on either side. The final proposed change to the house is the removal of the previously approved handrail at the main entrance.

Landscape changes include: the switch of the driveway from two concrete strips to a completely permeable driveway; the construction of a rain garden, two planters, and two retention tanks; and the removal of a mature, healthy tree. The applicant is proposing the construction of a rain garden in the northeast corner of the rear yard; the design of the rain garden was changed per the DRC's request to take into consideration the critical root zone of Tree #4 (as seen on the drawings). Originally, the rain garden was located within the critical root zone of that tree but has since been reduced in size to avoid it. Additionally, two retention tanks have been included in the drawings - one along the north elevation and one along the east. Both tanks will be installed on concrete pads. The proposal also includes the construction of two planters next to each retention tank; each will include a variety of plantings to help with storm water management. Finally, the applicant is

proposing the removal of Tree #8, an Eastern redcedar of 16 diameter breast height (DBH), given that the footprint of the proposed new house cuts through the area in which the tree is located.

Ms. Tawney next summarized the feedback given at the March 2, 2022, virtual DRC meeting: the DRC members requested that the applicant reduce or move the rain garden to avoid the critical root zone of Tree #4, per the County Forester’s recommendation, and to note the location of the 1:1 replacement tree for Tree #8 on their drawings. The DRC agreed that this item could be placed on the Consent Agenda for the March 16, 2022, virtual HALRB public hearing if those changes were made to the proposed project application. However, the HPP staff later recommended that this item be placed on the Discussion Agenda instead; since the project still required future approvals from other Arlington County departments, moving the item to the Discussion Agenda would enable the HALRB to consider a motion that would allow for additional future minor changes to the proposed plan without necessitating the applicants’ return to the HALRB.

Ms. Tawney then presented the staff recommendation as follows:

The Historic Preservation Program staff recommends approval of the subject application. The proposed changes to the house are minor and are compatible with the design of the house and the character of houses in Maywood. Furthermore, the design adheres to Chapter 6: New Addition/Building of the *Maywood Design Guidelines*. Given the proposed footprint of the new house and the County zoning requirements for the lot, staff finds the removal of Tree #8 to be acceptable. Although the tree is in good condition and staff would normally recommend saving a healthy tree, the extenuating circumstances of this application, such as the fact that the original design was previously approved by the HALRB and the position of Tree #8 is within the previously approved footprint of the new house, make the tree's removal permissible. Furthermore, the fire-damaged home has been part of Maywood's streetscape for two years so the commencement of this project would be a positive improvement. Finally, staff appreciates the changes to the rain garden to avoid the critical root zone of Tree #4 and appreciates the use of retention tanks and planters as a part of the landscape design. It should be noted that the replacement tree for Tree #8 was not noted on the updated drawings, but HPP staff find it would be appropriate for the replacement tree to be planted elsewhere on the property such as along the south elevation near the street.

The Chair invited the DRC to present its comments. Mr. Davis stated that the DRC’s biggest concern was the relocation of the rain garden to avoid the critical root zone of Tree #4, and given that this was done, the DRC was still in agreement about the plan as presented. The Chair then invited the applicant, Mr. Collart, to speak. Mr. Collart expressed his thanks and stated he did not have much more to add that was different from the staff report.

The Chair then asked the other commissioners to comment. Ms. Lawrence stated she supported the changes and asked for further clarification about the location of the 1:1 replacement tree for Tree #8. Mr. Collart responded that they would like to plant either a Cherry or a Redbud in the

front yard. Hearing no other comments or questions from the commissioners, the Chair proposed the following motion:

I move that the HALRB approve CoA 21-02A to permit the minor changes proposed in the subject application which are compatible with *Maywood Design Guidelines* Chapter 6: New Addition/Building, and further, to approve the proposed landscaping changes as accompanied by appropriate tree replacement. Additional minor and technical changes that may be subsequently proposed for the new building are deemed approved, subject to staff consent.

Ms. Gwin seconded the motion. The Chair asked for final questions. Upon hearing none, he asked Ms. Liccese-Torres to call the roll. The motion pass unanimously 10-0.

Discussion Agenda Item #2: CoA 22-02, 2204 N. Kenmore St.

Ms. Farris gave the staff report for 2204 North Kenmore Street, stating that it was a contributing Colonial Revival-style house constructed before 1912 in the Maywood LHD. She provided the project background: the HALRB had considered and approved six other projects at this property between 2015 and 2021, including the removal of a 1943 garage, the construction of a two-story addition, the construction of timber window wells, and the installation of a pool, patio, and other hardscaping improvements. The current application was for the replacement of fourteen (14) wood windows with new wood windows on the historic core of the contributing house. The project involved the in-kind replacement of ten double-hung wood windows at the first and second stories; two double casement wood windows in the attic story; and two single casement wood windows in the gable dormers. All the windows are visible from the public right-of-way. The property owners requested the in-kind window replacement to address air drafts that create condensation during inclement weather, the windows' susceptibility to insect infestation, and their lack of energy efficiency when compared to modern standards. Ms. Farris mentioned that the HPP staff could not find documentation strongly indicating that the subject windows date to the period of significance for the Maywood LHD.

Ms. Farris summarized the DRC's consideration of the project. The DRC first reviewed the application at its February 2, 2022, virtual meeting. The applicants presented the scope of work for the window replacement provided by Marvin Windows. The DRC requested staff visit the property and provide a condition report of the existing windows, and that the property owners contact a window restoration company for more options. Staff conducted a window survey on February 10th. The applicants returned to the March 2, 2022, virtual DRC meeting, where they provided a summary of a discussion with Mozer Works, Inc., a window restoration company. Staff stated that based on its analysis, the windows were in good condition but needed maintenance and weatherproofing at a minimum. Recognizing that potential replacement of the windows could create a precedent, the DRC recommended that this application be placed on the Discussion Agenda for the March 16, 2022, virtual HALRB public hearing.

In accordance with both HALRB precedent and the existing guidance in the *Maywood Design Guidelines* regarding window replacement, Ms. Farris stated that the HPP staff recommended denial of the application. She explained that the windows are in good condition, could be repaired, and at a minimum weatherproofed, cleaned, and sanded and/or painted where needed. She noted that since staff could not prove that the windows post-dated the LHD's period of

significance, the windows are considered historic material and thereby a character-defining feature of the contributing dwelling. Ms. Farris stated that an in-kind replacement of the 14 wood windows does not meet the intent of Chapter 5 ‘Exterior Renovation’ of the *Maywood Design Guidelines*, which requires historic windows to be repaired rather than replaced if repair is possible. Additionally, she explained that window replacement does not meet *The Secretary of the Interior’s Standards for Rehabilitation*, which states that deteriorated historic features shall be repaired rather than replaced.

Ms. Farris said that if the windows are replaced in-kind, this would be a major policy change and would potentially set a new precedent for the review of future window replacements in Maywood. Staff therefore recommended that the HALRB develop and adopt new language for the *Maywood Design Guidelines*, in collaboration with the DRC and the Maywood community, to address updated parameters for window replacements in both contributing and non-contributing dwellings (and potentially outbuildings) in the LHD. She stated staff viewed this as necessary to clarify the requirements for future window replacements for applicants and to offer specific guidance to the HALRB and staff when reviewing such requests.

The Chair first opened the discussion to the DRC members. Ms. Gwin offered input on the two recent DRC reviews, stating the DRC thought this application should be discussed with the HALRB because of the limited number of local craftsmen at this time that could do the restoration, and the amount of time it would take to have the windows off site. She said some of the DRC members asked if a restoration firm could install insulated glazing into the existing window sashes to prevent changing any sight lines of the existing windows. Ms. Gwin also stated that the existing windows are not the most significant windows, and that the DRC recognized that this decision could cause a precedent, but thought it was important to explore energy efficient options while retaining the historic fabric. Mr. Wenchel reiterated Ms. Gwin’s statement about consideration for energy efficiency and emphasized the need for insulated glazing to prevent condensation. He also stated that since this is a contributing house, the *Secretary’s Standards* are clear about reusing historic fabric instead of replacing it, and that modifications could occur on the interior of the window sash with the installation of double insulated glazing. Mr. Wenchel saw this as an important consideration to have the applicants retain the windows but change out the glazing for insulated glass and weatherproofing, since storm windows can be cumbersome.

The HALRB Chair asked to hear from the property owners, the Greenes. The applicants pointed out that staff could not determine if the windows date from the period of significance. They stated they already restored the windows in 2015 with their custom home builder to get the windows into generally good shape. The Greenes repeated their concerns about mildew growth, energy efficiency, cost, how restoration would involve removing all the windows for 8-10 weeks, and that they still would need to consider adding storm windows for optimal energy efficiency. The window restorer also did not recommend restoring windows on-site because the level of restoration could not be determined until the windows were removed and temporarily replaced with plywood infills. The Greenes stressed the need for new windows because of the low performance of the current windows during inclement weather; safety issues because the dormer windows do not have locks; and health issues because of the mildew growth. Lastly, they wanted

their application to be solely considered in relation to their needs, and not to the entire needs of the Maywood community.

The HALRB Chair recognized that the HPP staff stressed how this application would create a new precedent in Maywood, but he disagreed with that notion. Mr. Woodruff sympathized with the applicants about the level of restoration work needed for these windows, which would involve removing the windows, isolating the rooms because of lead paint exposure, and determining the level of restoration once the windows were off-site. He acknowledged how that work would affect the daily life of the applicants. He was also skeptical about the installation of insulated glass. He recognized that installing storm windows could help, but he also believed new windows to be a viable option especially since the proposed in-kind window replacements would meet the *Secretary's Standards* of being similar to the existing windows.

Ms. Bolliger added that the restoration firm, Mozer, was very capable, but did recognize that completing a full window restoration could be intrusive on the owners. She stated Mozer also offers a technical tune-up that involves removal of the window sashes on site where zinc weatherstripping would be added to reduce air infiltration; this could be completed in a few days. She further acknowledged that this would not address paint issues, since painting the windows in place can cause issues with window operations. Ms. Bolliger, who has extensive window restoration experience, stated that in her experience it is not possible to add double glazing to an existing single pane window because there is not enough space in the channel. The Chair thanked Ms. Bolliger for this clarification and asked for further input from other HALRB members.

Ms. Gwin stated there is a difference between having a carpenter or general contractor treat historic windows versus a tradesman restoring windows; however, she also stated that the HALRB needs to be cognizant about the health and energy efficiency issues associated with this application. Ms. Gwin has seen a window replacement with insulated glazing before but in larger windows. During the DRC meeting, Ms. Gwin requested that the Greenes provide the site lines of the existing windows for comparison with the proposed windows provided by Marvin. The Greenes provided measurements of the proposed windows, but did not provide them for the existing windows. Ms. Gwin stated that this would be important for the HALRB to confirm. Mr. Davis was also sympathetic to the property owners but asked staff to explain the precedent if the HALRB allowed the replacement of these windows.

Ms. Farris indicated that community input would be needed concerning this change to the *Maywood Design Guidelines*, noting that the administrative aspect of the work also needs to be considered (e.g., what would be the determination when such work could be allowable and who would do this. Ms. Liccese-Torres stated that over the past 15 to 20 years, the HALRB has followed the *Secretary's Standards* for windows and recommended that they be repaired wherever possible. She further stated that the HPP staff discussed the issue with the County Attorney's Office, which confirmed staff's concerns for transparency in the review process, the need to create parameters for future window replacements, the need to include updated language in the *Design Guidelines*, and for the HALRB to consider such guidance at a public hearing. The HALRB Chair stated that he did not see this as a complicated issue, but did see the challenge with determining the threshold that would allow for windows to be replaced versus restored. He noted that the *Maywood Design Guidelines* are not clear because they state that window

restoration *should* occur, thereby indicating that restoration is not mandatory and the other is advisory. Furthermore, he said the guidance on replacing windows with different materials, different design, and/or different size requires a CoA, but does not address the question of original windows. He did not see that the current *Design Guidelines* supports only window restoration.

Ms. Lawrence stated she did not disagree with what had been said thus far, but she did not believe the HALRB had sufficient information, such as the actual frame dimensions of the existing window sashes, to decide on this application during this meeting. She explained how her house was built in 1909 and has windows fronted by storm windows, but her historic windows do not have condensation or mildew issues; however, a more modern window [on her house] that is 30 years old does have condensation issues. She stressed the need to have all the window dimensions for this proposed application, and that she does lean in favor of repair and refurbishment, especially since there are different options to make windows more energy efficient in-situ. She agreed with the Chair that a defined threshold is needed. She suggested the application be deferred until the HALRB has more information.

Ms. Meyer agreed that the HALRB needed more dimensions before deciding, and that she was leaning towards repair, but asked if one window could be sent to be assessed by the restoration company to make a recommendation on the level of restoration necessary. The Greenes stated they could provide the requested dimensions and reminded the Board that it was appropriate to also consider cost and technical feasibility. They also thought that installing storm windows would essentially hide the existing windows from view. The owners reiterated the efforts they already have made to preserve the historic fabric of their home.

Mr. Laporte sympathized with many of the statements made by the HALRB members and felt that the HALRB needed to defer a vote until they received the requested dimensions. The Chair asked for any more comments from the commissioners. Upon hearing none, Mr. Laporte proposed a motion:

I move that the HALRB defer the consideration of the application until the HALRB has information about whether the proposed replacement windows satisfy *The Secretary of the Interior's Standards for Rehabilitation* with respect to the outside profile.

The Chair seconded the motion. There was no debate or further discussion. The applicants requested clarification on what was happening, and the Chair explained that a decision was not being made that evening on their application. The motion passed unanimously 10-0. The Chair explained that the deferral was passed without prejudice.

Discussion Agenda Item #3: CoA 22-03, 2309 N. Jackson St.

Ms. Farris gave the staff report for the project at 2309 North Jackson Street, which is a non-contributing resource to the Maywood LHD and constructed in 1983. She summarized the proposal as follows: the property owners have requested to remove a large sweetgum tree with a 20" diameter breast height (DBH) at the rear of the property. The tree in question is located near a shed that pre-dates the dwelling. She noted that the shed is not mentioned in the Maywood National Register nomination, and due to extensive changes, it lacks integrity of materials,

design, workmanship, and feeling. The Frischknechts want to make landscape improvements to their property, including the replacement of a retaining wall near the shed and sweetgum tree, but this depends on whether the tree remains in place or is granted removal. Ms. Farris explained that the owners use the shed regularly (and therefore would like to keep it), that they are prepared to follow the County's guidelines for tree replacements, and that their neighbors support the tree removal. It was also noted that there was not enough space in the yard to relocate the shed.

Ms. Farris said the DRC discussed the application at its March 2, 2022, virtual meeting. She explained that the County Urban Forester assessed the tree and determined that the roots, trunk, and branches were healthy. The Urban Forester noted that the shed appeared to have been built around the tree, and that the tree conflicts with the roof edge. The Forester also observed that if the tree were to be removed, there was no area in the back yard to plant a new canopy tree due to existing hardscape. Some of the DRC members expressed concerns that the tree would continue to contact the shed's roof. However, the DRC recognized that the HALRB does not typically approve the removal of healthy trees, unless the trees are detrimental to a contributing historic resource; in this case, the shed is a non-historic structure. The DRC recommended that this application be placed on the Discussion Agenda for the March 16, 2022, HALRB public hearing.

Ms. Farris stated the HPP staff recommended denial of the application given HALRB precedent, the Urban Forester's finding that the subject tree is healthy and poses no safety hazards, and the fact that all trees over 15-inch in DBH are protected in the Maywood LHD as per the *Maywood Design Guidelines*. She emphasized that the Urban Forester did not make a formal recommendation to retain the tree, but in conversation with the HPP staff, a statement was made that the subject tree was on the property before the shed and therefore the tree should receive priority. Therefore, staff recommends denial of the subject application as it fails to comply with Chapter 7: Site Elements of the *Maywood Design Guidelines*.

Ms. Farris explained that the HALRB previously has permitted the removal of healthy trees when their loss is unavoidable. She described a similar application in which the HALRB denied a request to remove a 17-inch pine tree from the property at 3628 21st Avenue North in 2017. In that case, the owner stated the soil around the tree was poor and compromising a nearby retaining wall, that the tree was leaning enough to pose a danger to their property, and that the roots and poor soil surrounding the tree had made large portions of their yard difficult to use. The tree was not in contact with any dwelling or structure. The Urban Forester stated that the tree was healthy and should not be removed. The HPP staff likewise recommended that the tree be retained based on the analysis of the Urban Forester and the *Maywood Design Guidelines*. Therefore, the HALRB denied the removal of the tree in that case.

However, in the subject application, the HPP staff recognized that the sweetgum tree was in contact with the non-historic shed and causing damage to the structure. If approved, the tree's removal would allow the Frischknechts continued use of their shed without future hazards and they could continue to complete further landscaping improvements. They also could replant a canopy tree depending on the County's tree replacement requirements, either on their property or at an allowable alternative location. Although the option to approve the removal of the sweetgum tree would reduce Maywood's tree canopy now, ongoing damage to the shed could potentially cause it to become unstable, unusable, and/or unsafe. Ms. Farris mentioned that a public

comment had been received [from neighbor Damon Andrews] which was submitted in advance and had been circulated to the HALRB. The comment is included below for the record and Mr. Andrews echoed the information at the hearing as a public speaker:

“We live on property adjacent to 2309 N. Jackson Street and fully support the application for a COA to remove the sweet gum tree in question. While we recognize that the tree might require a COA based on its diameter, this is not a “historical tree” as traditionally understood (such as one of the many 19th century oaks along the Military Road corridor). We sincerely hope that the Board will recognize the high value to the applicants of being able to take down the tree to realize the full potential of their backyard space versus the tree’s marginal (if any) historical value. We are willing to plant a canopy tree on our property (approximately 20 feet away from the sweet gum in question) if that would provide assurance to the Board that the tree canopy in Arlington (and Maywood in particular) is not being reduced overall by the removal of this tree. Please approve this application. Thank you for your consideration.”

The HALRB Chair asked the Frischknechts if they wished to speak. The Frischknechts explained their reasons for wanting to remove the tree from their rear yard because it is adjacent to a large, detached structure and is causing it damage. The structure, one that the Frischknechts use regularly, is a two-story shed with electricity and drainage. During their research on replacement trees, they noticed that sweetgum trees were not recommended because of their aggressive root systems. They voiced concern that the shed will continue to be damaged by the tree and its root system. They also noticed that the tree hangs over their house and that it does not follow the County’s guidelines for sweetgum trees to be 20 feet away from a primary residence. They also have a retaining wall that needs to be repaired, and because the tree is located immediately on the back of the property line it makes it difficult to repair this retaining wall.

Their neighbor, Mr. Andrews of 2322 North Fillmore Street, expressed support for the removal of the tree. Mr. Andrews stated that since the Frischknechts do not have adequate space to plant another canopy shade tree, he expressed a commitment to plant one on his property instead if that would be permissible. [See his full public comment above.]

This suggestion for the Frischknechts to seek out an appropriate alternative location to replace the tree was a DRC recommendation. The Frischknechts further explained they have a unique opportunity to remove the tree now because their neighbor’s house (the Collarts) was damaged by a fire, and they will have much easier access to the back of their property line to remove the tree. The Frischknechts described a similar case (HALRB Case 14-16B) approved by the HALRB for the removal of a large, healthy maple tree that was 30-inches in diameter in July 2014 for the construction of a driveway with plans to replace the canopy elsewhere. The Frischknechts agreed on the staff report concerning how the shed will become unsafe if the tree were to be left in place.

The HALRB Chair asked for input from the DRC. Ms. Gwin stated that given how this is such an unusual issue, the DRC recommended the application be brought forward for HALRB discussion. She reiterated that both the shed and primary residence are non-contributing to the

LHD. If the HALRB were to approve the removal of the tree, Ms. Gwin suggested the specific location of the replacement tree be marked on a plan.

Mr. Andrews then spoke further in support of the tree's removal and reiterated his willingness to plant a qualifying canopy tree about 15 to 20 feet from the current location of the sweetgum tree. Mr. Andrews explained how he went through a similar experience of needing to remove a large tree from his property that was originally healthy but then became unhealthy after the construction of his home.

The HALRB Chair asked about another tree shown in one of the applicant's photographs. The HPP staff explained this was a black walnut tree on the Collart's property at 3205 23rd Street North, which was being retained through a separate project heard earlier (CoA 21-02A). Ms. Garner stated that given the damage the tree was causing to the existing outbuilding, although non-contributing, the tree should be removed and replaced elsewhere. Ms. Lawrence explained that it can be difficult to find a balance between a non-contributing structure and a canopy tree, but in this situation the applicants have made a good case for removal of the tree. Mr. Laporte asked for further clarification as to whether the HALRB could accept the proffer from the neighbor for the replacement tree to be located on the adjacent property and if this would be sufficient given that the County usually requires replacement trees to be planted on the same lot. Staff explained that they believed there are locations in the County where replacement trees can be planted, but that they could not confirm this, or if the neighbor's property could be an option.

The Frischknechts further reiterated that their property is a smaller lot and cannot accommodate a large canopy tree and that it was the DRC's recommendation to speak with their neighbors about nearby locations for the tree replacement. They also stated the *Maywood Design Guidelines* recommend that tree replacements be of a similar size to what is being removed. Before staff could respond to a request by the Chair to clarify, Ms. Lawrence stated that since it is the property owners' request to remove the tree, it is their obligation to replace it and that she did not know if they could transfer that obligation to their neighbor. She acknowledged this is a complicated case. The Chair asked if the Frischknechts could simply buy the tree and then plant it in the neighbor's yard. Ms. Lawrence and the Chair agreed that it would need to be specified in the motion what the Frischknechts are obligated to do. Ms. Lawrence repeated that the HALRB's approval to allow the removal of this tree is contingent on the property owners planting another tree, not somebody else planting a tree.

Ms. Farris suggested allowing the HPP staff to get clarification from the Urban Forester on acceptable locations for a replacement tree. Ms. Liccese-Torres stated that the HALRB had not dealt with a case like this before where a neighbor has graciously volunteered their property for a replacement tree. She suggested that the HALRB could consider a conditional CoA approval with a final approval being contingent on staff clarifying with the Urban Forester the specific requirements for tree replacement and if the neighbor's property is sufficient [to meet those requirements]. She said another option could be for the HALRB to defer the application until those questions could be answered, have the applicant and their neighbor agree to the exact species, size, and tree replacement location, and then have the Frischknechts return to the HALRB for approval.

Mr. Laporte objected to deferring the application and thought staff could handle the documentation concerning the tree replacement location with confirmation from either the Urban Forester or the County Attorney. The Chair stated that those details could be included in the motion. Ms. Liccese-Torres suggested another option for a conditional approval or an approval with final decision by the DRC and staff regarding the new tree placement. Ms. Gwin stated that the DRC felt comfortable with the tree removal and that staff approval would be sufficient. The Chair felt the motion could be a conditional approval based on the Urban Forester's recommendation on location and tree species, and that staff, the Urban Forester, and the Frischknechts could work out those details. Ms. Liccese-Torres asked what if the Urban Forester determined that the location is not acceptable? The Chair was unclear why this would be an issue, but Ms. Lawrence explained that there were some legal issues that needed clarification.

The Chair asked the Frischknechts if their application needed to be decided tonight, in which they confirmed yes given their desire to create design plans for other landscape projects. Ms. Liccese-Torres recommended a deferral of the project. The Frischknechts reiterated it was the DRC that requested them to consider their neighbors' properties for tree replacement locations, and that they did not see any requirement to replant a tree on the same lot. Ms. Liccese-Torres explained that staff depends on the Urban Forester's recommendations, and if there is another location where the tree replacement could occur then that needs to be clarified. The Chair made the following motion:

I move that the HALRB approve CoA 22-03 [for 2309 North Jackson Street] contingent upon the County Forester's direction on the location and species of the replacement tree and the specificity of that and communicate that to staff and that staff approve and communicate that to the owner.

Ms. Gwin seconded the motion. The Chair asked that staff do their best to receive an expedient response from the Urban Forester. The motion passed 8 to 1, with the Chair opposed.

REPORTS OF THE CHAIR AND STAFF

Chair's Report

The Chair requested that the members review a recent HALRB letter to the County Board in support of retaining Joyce Motors in situ [as part of the Clarendon Sector Plan update]; the building ranks as Essential in the Historic Resources Inventory (HRI). Ms. Lawrence and Ms. Gwin expressed their support for the letter. Ms. Gwin debated the efficacy of the HRI and asked whether the HRI was a regulatory tool like LHD designation and design guidelines. Ms. Liccese-Torres replied that the HRI was not regulatory, but rather a planning tool. She said studying the HRI would be a recommended goal of the upcoming *Historic Preservation Master Plan* update. She further encouraged the commissioners to provide such comments for the record during the upcoming *Master Plan* feedback opportunities later in the year.

Staff and Other Reports

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Ms. Liccese-Torres informed the HALRB about the progress toward updating the *Historic Preservation Master Plan* and invited members to volunteer for the upcoming open houses and farmers market events this summer.

The Chair adjourned the meeting at 8:40 pm.